

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

TRIANGLE CAYMAN ASSET COMPANY,

Plaintiff,

v.

CARLOS ALVAREZ MENDEZ and
INVERSIONES ALVEL, INC.,

Defendants.

Civil No.

Re:

COLLECTION OF MONIES
FORECLOSURE OF MORTGAGE
AND OTHER COLLATERAL

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW Triangle Cayman Asset Company (“Triangle”), through its undersigned counsel, submits this complaint (the “Complaint”) and respectfully requests as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the present civil action pursuant to 28 U.S.C. § 1332, as the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and arises between citizens or subjects of a foreign state or nation. In particular, there is complete diversity of citizenship between Triangle (a Cayman Islands corporation with a place of business in Texas and with principal place of business in California) and Defendants (as defined below, who are subjects of Puerto Rico).

2. Venue in this Court is proper under 28 U.S.C. § 1391(b) because the events and omissions giving rise to the Complaint occurred within the District of Puerto Rico and the Defendants are subjects of Puerto Rico.

II. THE PARTIES

3. Triangle is an exempt, for-profit corporation, organized and existing pursuant to the laws of the Cayman Islands. Triangle's registered offices are located in Maples Corporate Services Limited, P.O. Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. Plaintiff has a place of business in the state of Texas and, for diversity jurisdiction purposes, also has its principal place of business in San Francisco, California. The name and mailing address in the Commonwealth of Puerto Rico of the servicer of the assets acquired by Triangle is Capital Crossing Puerto Rico, LLC, 221 Ponce de León Avenue, 12th Floor, Suite 1204, San Juan, Puerto Rico 00917.

4. Upon information and belief, Carlos Alvarez-Mendez (the "Borrower") is, single, a resident of Guaynabo, Puerto Rico, with physical and/or mailing address at 403 Condominio Alta Vista II PH A Alturas de Torrimar, Guaynabo, Puerto Rico 00969 and postal address of PO Box 363348, San Juan, Puerto Rico 00936-3348.

5. Upon information and belief, Inversiones Alvel, Inc., ("Alvel" and jointly with the Borrower, the "Defendants") was a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Upon information and belief, Alvel's principal place of business was located at 403 Condominio Alta Vista II PH A Alturas de Torrimar, Guaynabo, Puerto Rico 00969 and postal address of PO Box 363348, San Juan, Puerto Rico 00936-3348. Alvel is brought as a party to this action as a guarantor of the Borrower under the Financing Agreements and as title-holders of the Real Estate Collateral (as defined below).

III. FACTUAL BACKGROUND

6. On April 30, 2010, the Office of the Commissioner of Financial Institutions closed the operations of Eurobank and named the Federal Deposit Insurance Corporation (“FDIC”) as receiver. On that same date, Oriental Bank (“Oriental”) executed an agreement with the FDIC through which it acquired certain assets of Eurobank, including, among others, the credit relationships between Eurobank and the above-captioned co-defendants.

7. On September 28, 2015, Oriental and Triangle executed an “Assignment and Assumption Agreement” pursuant to which Triangle acquired certain credit facilities, including those object of this proceeding, that were previously held by Eurobank.

A. The Loan Agreements.

8. On March 28, 2008, the Borrower and Alvel as guarantor, executed a loan agreement titled “Contrato de Línea de Crédito Rotativa” under Affidavit Number 26,010 of Notary Public Nelson W. González Rosario, (the “Loan Agreement I”). Through the Loan Agreement I, Eurobank provided the Borrower a rotating line of credit in the principal aggregate amount of \$1,700,000.00. See, Exhibit A.

9. The principal amount due under Loan Agreement I is further evidenced by a promissory note, with its subsequent allonge, issued by the Borrower in favor of Eurobank, and subsequently endorsed in favor of Triangle, in the amount of \$1,700,000.00, dated March 28, 2008, and executed under Affidavit Number 26,011 of Notary Public Nelson González Rosario (“Promissory Note I”). See, Exhibit B.

10. On May 29, 2008, the Borrower, with Alvel as guarantor, executed an amendment to Loan Agreement I, under Affidavit Number 26,188 of Notary Public Nelson

W. González Rosario, increasing the amount of Loan Agreement I to the principal amount to \$1,820,000.00 (the “Amendment to Loan Agreement I”). See, Exhibit C.

11. By virtue of the Amendment to Loan Agreement I, the Borrower and Alvel executed an allonge to Promissory Note I to increase the principal amount thereof to \$1,820,000.00 (the “Allonge to Promissory Note I”). See, Exhibit D.

12. On February 13, 2009, the Borrower executed a credit agreement under Affidavit Number 16,854 of Notary Public Luis M. Nolla Vila (the “Loan Agreement II”). Through Loan Agreement II, Eurobank provided the Borrower a line of credit in the principal aggregate amount of \$690,000.00. See, Exhibit E.

13. The principal amount due under Loan Agreement II is further evidenced by a promissory note, with its subsequent allonge, issued by the Borrower in favor of Eurobank, and subsequently endorsed in favor of Triangle, in the amount of \$690,000.00, dated February 13, 2009, and executed under Affidavit Number 16,855 of Notary Public Luis M. Nolla Villa (“Promissory Note II”). See, Exhibit E-1.

14. Loan Agreement I, Amendment to Loan Agreement I, Loan Agreement II Promissory Note I and Promissory Note II, and their corresponding allonges, are jointly referred herein as the “Financing Agreements”.

B. The Mortgages and Mortgage Notes.

15. The Financing Agreements are guaranteed by the following mortgage notes:

- (i) Mortgage note issued by Alvel payable to Eurobank, or to its order, subsequently endorsed in favor of Triangle, in the principal amount of **\$768,000.00**, due on demand, authenticated under Affidavit Number 20,458 of Notary Public Nelson W. González Rosario, dated March 29, 2004 (“Mortgage Note I”) and secured by Deed of Mortgage Number 96, dated March 29, 2004 (“Mortgage I”), before Notary Public Nelson W. González Rosario, in the principal amount of **\$768,000.00**, constituted over property number 25,081 recorded in the Registry of the Property of Puerto Rico, Third Section of San

Juan, at page 213 of volume 848 of Monacillos, (“Property 25,081”). See, **Exhibit F** and **Exhibit G**.

- (ii) Mortgage note issued by Alvel payable to Eurobank, or to its order, subsequently endorsed in favor of Triangle, in the principal amount of **\$219,000.00**, due on demand, authenticated under Affidavit Number 20,459 of Notary Public Nelson W. González Rosario, dated March 29, 2004 (“Mortgage Note II”) and secured by Deed of Mortgage Number 97, dated March 29, 2004 (“Mortgage II”), before Notary Public Nelson W. González Rosario, in the principal amount of **\$219,000.00**, constituted over property number 8,487 recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan, at page 5 of volume 230 of Monacillos (“Property 8,487”). See, **Exhibit H** and **Exhibit I**.
- (iii) Mortgage note issued by Alvel payable to Eurobank, or to its order, subsequently endorsed in favor of Triangle, in the principal amount of **\$213,000.00**, due on demand, authenticated under Affidavit Number 20,460 of Notary Public Nelson W. González Rosario, dated March 29, 2004 (“Mortgage Note III”) and secured by Deed of Mortgage Number 98, dated March 29, 2004 (“Mortgage III”), before Notary Public Nelson W. González Rosario, in the principal amount of **\$213,000.00**, constituted over property number 20,321 recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan, at page 200 of volume 587 of Monacillos (“Property 20,321”). See, **Exhibit J** and **Exhibit K**.
- (iv) Mortgage note payable to Eurobank, or to its order, subsequently endorsed in favor of Triangle, or to its order, subsequently endorsed in favor of Triangle, in the principal amount of **\$600,000.00**, due on demand, authenticated under Affidavit Number 26,012 of Notary Public Nelson W. González Rosario, dated March 28, 2008 (“Mortgage Note IV”) and secured by Deed of Mortgage Number 42, dated March 28, 2008, (“Mortgage IV”), before Notary Public Nelson W. González Rosario, in the principal amount of **\$600,000.00**, constituted over properties (i) 25,081 recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan, at page 131 of volume 982 of Monacillos, which responds for the amount of \$350,000.00 (ii) 8,487 recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan, at page 200 of volume 587 of Monacillos, which responds for the amount of \$125,000.00 and (iii) 20,321 recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan, at page 200 of volume 587 of Monacillos, which responds for the amount of \$125,000.00. See, **Exhibit L** and **Exhibit M**.

16. Mortgage Notes I-IV are jointly referred herein as the “Mortgage Notes”; and Mortgages I-IV are jointly referred herein as the “Mortgages”.

(i) Other Collateral Documents

17. To secure the obligations under Loan Agreement I, the Borrower, and Alvel, as Guarantor, executed a pledge and security agreement on March 28, 2008 (the “Pledge and Security Agreement I”), under Affidavit Number 26,013 of Notary Public Nelson W. González Rosario. See, Exhibit N. Pursuant to the Pledge and Security Agreement I, the Borrower and Alvel, as guarantor, granted Eurobank a security interest in, but not limited to Mortgage Notes I, II, III and IV, which were pledged in favor of Eurobank, now Triangle.

18. On May 29, 2008, the Borrower and Eurobank, with Alvel as pledgor, executed an Amendment to Pledge and Security Agreement I (“Amendment to Pledge and Security Agreement I”), in accordance to the principal increase by virtue of Amendment to Loan Agreement I, under Affidavit Number 26,189 of Notary Public Nelson W. González Rosario. See, Exhibit O.

19. On March 28, 2008, the Borrower and Alvel executed and filed a UCC-1 financing statement before the Puerto Rico Department of State, registration number 2008022475 (the “Financing Statement”), under Affidavit Number 26,014 of Notary Public Nelson W. González Rosario, in accordance with Chapter 9 of the Commercial Transactions Act through which Triangle’s lien was further perfected in relation to Mortgage Notes I, II, III and IV. See, Exhibit P.

(ii) Legal Descriptions of the Properties (the “Real Estate Collateral”)

20. Mortgages I and IV, which guarantee Mortgage Notes I and IV encumber Property 25,081, which is described in the Registry of Property in the Spanish Language as follows:

Property 25,081 (“Property I”)

“**URBANA:** Solar de la Urbanización Caparra Terrace, radicado en el Barrio Monacillos del término municipal de San Juan, Puerto Rico, con una superficie de novecientos setenta y cuatro metros cincuenta y un decímetros cuadrados (974.51). En linderos: **NORTE**, en una distancia de 19.00 metros, con la Avenida Jesús T. Piñero (antes Avenida Central); **SUR**, en 4.63 metros, con el solar número 25-A del Bloque LA y 6.00 metros, con el solar número 17-B del Bloque LA; **ESTE**, en 25.00 metros, con el solar número 3 del Bloque LA, en 7.90 metros, con el solar 15-A, en 20.90 metros, con el remanente del solar número C-1, en 8.50 metros y 9.80 metros, con el solar remanente del solar número C-2 de dicho bloque; y por el **OESTE**, en 25.00 metros, con el solar número 1-LA y 21.10 metros y 21.65 metros, con los solares número 25 A y B y número 26 A y B del Bloque LA de dicha Urbanización.

Enclava un edificio de dos pisos.”

Property I is recorded at page 213 of volume 848 of Monacillos, in the Registry of the Property of Puerto Rico, Third Section of San Juan. See, Exhibit Q.

21. Mortgages II and IV, which guarantee Mortgage Notes II and IV encumber Property 8,487, which is described in the Registry of Property in the Spanish Language as follows:

Property 8,487, previously Property 10,007 (“Property II”)

“**URBANA:** Lote marcado con el número C-1 del Barrio Monacillos, radicada en el Barrio Monacillos del término municipal de San Juan, Puerto Rico, con una superficie de doscientos setenta y ocho metros veintiséis decímetros cuadrados (278.26). En linderos: **NORTE**, en 24.85 metros, con el solar 15-B del Bloque LA; **SUR**, en 19.64 metros, con el solar número C-2; **ESTE**, en 8.90 metros, con la Calle 5 S.O.; **OESTE**, en 20.90 metros, con la segregación de dicho solar.

Enclava una casa de concreto para una familia la cual tiene servidumbre de pared medianera entre el solar 16-A y 16-B del Bloque LA de la Urbanización Caparra Terrace.

Property II is recorded at page 5 of volume 230 of Monacillos recorded in the Registry of the Property of Puerto Rico, Third Section of San Juan. See, Exhibit R.

22. Mortgages III and IV, which guarantee Mortgage Notes III and IV encumber Property 20,321, which is described in the Registry of Property in the Spanish Language as follows:

Property 20,321 (“Property III”)

“**URBANA:** Lote número C-2. Solar sito en el Barrio Monacillos de la municipalidad de Río Piedras, antes, hoy San Juan, Puerto Rico, con un área superficial de doscientos setenta metros con cincuenta y dos centímetros (270.52), que colinda: por el **NORTE**, en diecinueve metros con sesenta y cuatro centímetros (19.64), con el remanente del solar C-1; por el **SUR**, en dieciocho metros con ochenta centímetros (18.80), con el solar número 17 (B) del Bloque "LA"; por el **ESTE**, en ocho metros ocho centímetros (8.08), con la Calle número cinco "SO"; y por el **OESTE**, en ocho metros con cincuenta centímetros y nueve metros con ochenta centímetros (9.80), con la segregación de dicho solar.

Es el remanente de esta finca luego de deducidas varias segregaciones, según la escritura número 23, otorgada en San Juan, Puerto Rico, el día 23 de julio de 1990, ante el notario Jose M. Santiago Cano, e inscrita al folio 200 vuelto del tomo 587 de Río Piedras Norte, finca número 20,321, nota marginal de la inscripción 1ra.”

Property III is recorded at page 200 of volume 587 of Monacillos in the Registry of the Property of Puerto Rico, Third Section of San Juan. See, Exhibit S.

(iii) The Guaranty

23. On March 28, 2008, Alvel executed an “Unlimited and Continuous Guarantee” under Affidavit Number 26,015 of Notary Public Nelson W. González Rosario, whereas it guaranteed all the obligations of the Borrower under the Financing Agreements (“Guaranty”). See, Exhibit T.

24. The Guaranty, jointly with the Mortgage Notes, the Mortgages, the Real Estate Collateral, the Pledge and Security Agreement I, the Amendment to the Pledge and Security Agreement I, the Financing Statement, and the Guaranty, the “Collateral Documents”.

(iv) **Defaults.**

25. The Obligations (as defined below) in connection with the Financing Agreements are due and have been outstanding since December 31, 2008 (Loan Agreement I) and February 13, 2012 (Loan Agreement II). Despite several collection efforts by Triangle for the amounts owed pursuant to the Financing Agreements, neither the Borrower or Alvel have made any payment to Triangle for the satisfaction of the Obligations. See, Exhibit U.

26. Specifically, and as to the latest collection effort, on March 1, 2023, Triangle sent a Notice and Declaration of Events of Default (the “Notice of Default”) to the Defendants, notifying that they had failed to make the corresponding Monthly Payments (as defined therein) and the payment of the remaining balance under the Loan Agreement I and II. See, Exhibit U. Triangle gave the Defendants a cure period of ten (10) days (the “Cure Period”). Id. The Cure Period expired and the Defendants failed to cure their defaults. Accordingly, and upon the expiration of the Cure Period, Triangle could exercise, at its sole discretion and without further prior notice, any and all of its additional rights and remedies under the Financing Agreements and applicable law.

27. To date, the Defendants have failed to cure the existing and continuing defaults detailed above under the Financing Agreements. As of May 31, 2023, the Defendants owed to Triangle the total amount of **\$4,167,418.50**, with a *per diem* of **\$461.23** under Loan Agreement I and a per diem of \$123.00, detailed pursuant to the payoff statements attached as **Exhibit V.**

28. The amounts detailed above continue to accrue interest each day until the date of the indefeasible payment in full of all amounts due under the Financing Agreements (collectively, the “Obligations”).

IV. FIRST CAUSE OF ACTION: COLLECTION OF MONEY

29. Triangle incorporates by reference each and every allegation set forth in paragraphs 1 to 28 as if set forth in full below.

30. The Defendants have failed to comply with their obligations under the Financing Agreements by, among other things, failing to make the corresponding payments under the Financing Agreements.

31. The Defendants owe to Triangle the Obligations, which are due, owing, payable and outstanding. Alvel as joint and several guarantor of the Obligations, is responsible and jointly liable with the Borrower for the payment of all of the Obligations.

32. The Obligations have not been paid by the Borrower, or by any other party on its behalf, in spite of Triangle’s collection efforts. Triangle hereby requests that this Honorable Court order the immediate payment of all of the Obligations by the Borrower and to enter judgment accordingly.

V. SECOND CAUSE OF ACTION: FORECLOSURE OF COLLATERAL

33. Triangle incorporates by reference each and every allegation set forth in paragraphs 1 to 32 as if set forth in full below.

34. In the absence of payment in full of the Obligations by the Borrower or Alvel, Triangle requests that this Honorable Court order the foreclosure of the Mortgages and the public sale of the Real Estate Collateral listed above.

35. In the absence of payment in full of the Obligations by the Defendants, Triangle further requests that this Honorable Court order the foreclosure of all of the non-real estate collateral under the Collateral Documents. For such purpose, Triangle requests that it also be allowed to enforce any and all rights or remedies under the Collateral Documents which are contemplated by Section 9 of the Puerto Rico Commercial Transitions Act, Laws of P.R. Ann., Tit. 19 § 2201 *et seq.*

36. The proceeds obtained from the foreclosure of the collateral, including the Real Estate Collateral, will be used to satisfy the Obligations under the Financing Agreements.

WHEREFORE, Triangle Cayman Asset Company respectfully requests that this Honorable Court enter judgment in its favor as follows:

- (i) ordering the Defendants to pay to Triangle the total amount of the Obligations, estimated at this time in the amount of **\$4,167,418.50**;
- (ii) ordering the foreclosure and public sale of all the collateral, including the Real Estate Collateral for the payment of the Obligations;
- (iii) in the event of a public sale, instructing the Marshal of this Honorable Court to deliver the possession of the sold collateral to the successful bidder(s) within twenty (20) days from the date of such sale, and if necessary, for such purpose, to evict any occupants of the properties without the need of any further instructions;
- (iv) entering a deficiency judgment if the proceeds of the sale of the collateral are insufficient to pay the Obligations owed to Triangle;
- (v) granting any other relief at law available to Triangle.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of June, 2023.

WE HEREBY CERTIFY that on this same date, we electronically filed this document with the Clerk of the Court using the CM/ECF system, which will send notification of the instant filing to all CM/ECF participants in this case.

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